



## STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board  
Pete T. Cenarrusa, Secretary of State  
Alan G. Lance, Attorney General  
J. D. Williams, State Controller  
Marilyn Howard, Superintendent of Public Instruction

Stanley F. Hamilton, Secretary to the Board

### FINAL MINUTES REGULAR LAND BOARD MEETING July 13, 1999 9:00 AM Montpelier, Idaho

The regular meeting of the Idaho State Board of Land Commissioners was held on July 13, 1999 in Montpelier, Idaho. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa  
Honorable State Controller J.D. Williams  
Honorable Superintendent of Public Instruction Marilyn Howard  
  
Secretary to the Board Stanley F. Hamilton

Honorable Attorney General Alan Lance was absent from the meeting.

Governor Kempthorne expressed his pleasure to be in Montpelier. He stated the group enjoyed the tour of the Oregon Trail Center. The Center's official opening ceremony was held at 2:00 p.m.

State Controller Williams provided information from the Board of Examiners meeting which took place prior to the regular Land Board meeting.

#### • **CONSENT AGENDA**

Director Hamilton provided background information on the consent agenda items.

##### 1. **Approve official transactions:**

- A. Bureau of Real Estate, Easement Section for May 1999
- B. Bureau of Minerals for May 1999
- C. Bureau of Real Estate, Land Sale Section for May 1999
- D. Bureau of Range Management and Surface for Cropland, Grazing, Cottage Site, Miscellaneous and Submerged Land Leases for June 1999

##### 2. **Approve timber sales, staffed by Ron Litz, Chief, Bureau of Forest Management**

- |    |           |                   |           |
|----|-----------|-------------------|-----------|
| A. | CR-1-0305 | Horn Point        | 2,300 MBF |
| B. | CR-2-0192 | Sheep Springs     | 1,985 MBF |
| C. | CR-2-0200 | Lower West Branch | 1,975 MBF |
| D. | CR-3-0420 | Davis Creek       | 6,970 MBF |
| E. | CR-3-0433 | Lost Finn Dam     | 7,245 MBF |

F.	CR-3-0443	Heinaman Creek	6,585 MBF	
G.	CR-3-0447	Bogus Pole	4,740 MBF	
H.	CR-3-0448	Smith Ridge Pole	3,385 MBF	3,875 Pieces
I.	CR-4-0591	Woodrat Wilson	4,140 MBF	
J.	CR-4-0693	Magnum Seed	5,395 MBF	
K.	CR-4-0705	South Teakean	2,085 MBF	
L.	CR-5-0086	Eagle Ridge	5,435 MBF	

3. **Addition to qualified bidders list, timber sales, staffed by Ron Litz, Chief, Bureau of Forest Management**
  - A. K. C. Logging, Inc., 817 Poplar, Sandpoint, ID 83864
4. **FY2000 Deficiency Warrants – Fire, staffed by Brian Shiplett, Chief, Bureau of Fire Management**
5. **Approval of association certification, staffed by Brian Shiplett, Chief, Bureau of Fire Management**
  - A. Southern Idaho Timber Protective Association
  - B. Clearwater-Potlatch Timber Protective Association
6. **St. Anthony Youth Training Center Surplus Property – Request by the Department of Juvenile Corrections to sell 5.1 acres of improved property in St. Anthony under the Surplus Property Act, presented by Perry A. Whittaker, Chief, Bureau of Real Estate**
7. **Request for approval to enter the Administrative Rule Making process for proposed revisions to IDAPA 20.02.01, Rules Pertaining to the Idaho Forest Practices Act, presented by Winston Wiggins, Assistant Director, Forestry and Fire**

Governor Kempthorne asked for background information on agenda item #6. Mr. Whittaker stated the Department of Juvenile Corrections tried to sell this piece of property in 1988. They feel interest rates may be more enticing at this time. Mr. Whittaker said he was not aware of any interested purchaser at this time. The property will go to public auction to see if there is any interest. He stated the buildings are quite rundown with some buildings beyond repair.

Governor Kempthorne requested Juvenile Corrections' long term plan before disposing of this parcel. After considerable discussion, Governor Kempthorne asked that this item removed from the agenda. There were no objections from the Land Board.

The motion was made by Secretary of State Cenarrusa to approve the Consent Agenda with agenda item #6 being withdrawn. Superintendent Marilyn Howard seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

Governor Kempthorne stated the Land Board was very pleased to be in Montpelier. He thanked State Controller Williams for suggesting that the meeting be held in Montpelier. He expressed the pleasure of the Land Board at being able to join in the celebration of the opening of the Oregon Trail Center.

State Controller Williams said the small community of Montpelier put forth a substantial amount of work building this new center. He felt it was important that the Governor be present to participate. The

Governor's attendance gave an indication of the state's appreciation because the Center will become a tremendous asset to the state of Idaho.

Secretary of State Cenarrusa commented that many people need to visit the Center. Superintendent Howard said that she and State Controller Williams had been in Montpelier during the Center's construction. She stated it was gratifying to see the amount of progress being made and the tremendous local involvement. The Center is a community venture.

Governor Kempthorne stated that he had preconceived ideas of what the Center would be like and it was totally different. He said this is not "your standard museum." He stated it would be something everyone would enjoy.

After the tour, Governor Kempthorne also had an opportunity to watch the Bear Lake All-stars baseball team (12 year-olds).

- **REGULAR AGENDA**

**8. Director's Report, presented by Stanley F. Hamilton, Director, Department of Lands**

Director Hamilton provided the Land Board with operational information from the Department. This report was the final report for fiscal year 1999. The total permanent fund went up from \$698,893,753 – June 30, 1998 to \$762,934,390 – June 30, 1999.

There was no action required on this issue.

**9. Lyman Creek Grazing Association Land Stewardship Award, presented by Lou Benedick, Eastern Area Supervisor**

Mr. Lou Benedick presented the stewardship awards. He stated it was with pleasure that he recommend a special recognition for a small group of endowment grazing land lessees. He said they have demonstrated outstanding land stewardship.

The Lyman Creek Grazing Association holds a lease from the state for 5,455 acres of state land. The lease was acquired in 1981 and approximately 80% of the mature lodgepole pine in that area had died during a serious bark beetle infestation. The removal of this lumber led to active erosion.

This leased land was being grazed as a single unit for a five-month long season. The range condition was in a downward trend. In the mid-1980s the Association made a personal commitment to work with Department of Lands area staff to develop a long-term allotment management plan. Their objectives were to improve range conditions and achieve better management on their leased grazing land. Mr. Benedick went on to describe the continued improvement through the next years by this Association.

Governor Kempthorne stated that this was a great example of who would benefit the endowment, which benefits the children of Idaho. He said we benefit the land and it demonstrates again the value of grazing on public land.

Governor Kempthorne entertained a motion to affirm this resolution. The motion was made by State Controller Williams and seconded by Secretary of State Cenarrusa. The motion carried on a vote of 4-0 with Attorney General Lance being absent. Copies of the resolution and plaques were presented to individual members of the Association and pictures were taken with the Land Board.

**10. Process for handling reopened 1995/1996 grazing leases, presented by Bryce Taylor, Bureau Chief, Range Management/Surface Leasing**

Mr. Taylor provided background information. He stated the Land Board had been briefed at the July 6, 1999 special Land Board meeting by the Attorney General's office regarding the implication of the Supreme Court action on Idaho Code 58-310.

At the briefing, the department was advised by the Attorney General's office that the 1995/1996 reopened leases should be processed. This would also apply to the 1999 expiring leases. Mr. Taylor advised the Board that the Attorney General's office said the department should ignore a couple of portions of that old code that were very similar to Idaho Code 58-310B. Those portions were the ones advising the Board to consider the importance of state grazing leases on the overall operation of the lessee and the portion that advised the Board to consider our lease on the total lessee ability to feed his livestock when he was not on ( ). The Department was advised not to use that in their analysis and the Department will comply as they move forward in the process.

Based on this information, the Department proposes that all applicants reapply for the reopened 1995/1996 grazing leases. In addition, notices will be posted for anyone else to apply should they wish to do so. Applications have to be on standard Department forms and have to include a \$10.00 application fee. The Department asked for an August 6 deadline for that to occur. The Department would like to be back before the Land Board in October to address all of the other issues.

All applicants will be required to provide a management plan for the Board's consideration as part of the review, after the auction. Each applicant will be mailed the Department's Vegetative Assessment Form (1541). Mr. Taylor covered the requirements of this form.

Superintendent Howard reaffirmed that the Land Board believes in and respects the Constitution. She stated the task before the Land Board is never an easy one and it truly is to make sure that we are operating in accordance with the Constitution. The decision made by the Land Board today will still be a good decision to represent generations from now. She stated this is a heavy responsibility and one that the Board members take seriously.

On the issue of grazing management plans, State Controller Williams stated the policy the Land Board is approving provides that the plans have to be submitted before the auction or they will not be reviewed. That may become an issue later with some individuals. The Board has clear direction from the Supreme Court on how to do this. The court stated that the Land Board still had discretion. There can be a time crunch, however. State Controller Williams felt it was well within the discretion of the Board to set a policy that if an applicant intends to submit a management plan, the applicant has to submit it before the date of the auction. This gives staff and the Board sufficient time to give very thoughtful consideration.

Secretary of State Cenarrusa moved to adopt the Department recommendation. State Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

**11. Review of cottage site appeal process, presented by Alvin Carr, Leasing Specialist**

Mr. Carr was unable to attend the meeting. Mr. Taylor provided the background information.

Mr. Taylor stated during the June 15<sup>th</sup> meeting there was an information agenda item informing the Board of several pieces of correspondence received from cottage site lessees at Priest Lake. The correspondence was received subsequent to notices being sent out indicating what the rents were going to be for year 2000. Mr. Lempesis and Mr. Cresswell came to the June 15 meeting and asked for an audience with the Board. They were granted an audience at that time. They wanted to discuss with the

Board the land value appeal process as it had been approved by the Board some months earlier – in fact, the appeal process was discussed in December 1998.

Based on that discussion, the Board directed the Department to come back this month and review the appeal process with the Board. A brief history was given of what the Department, the Board and the cottage site lessees have gone through over the last couple of years.

Mr. Taylor stated he wanted to go directly to the appeal process developed in December 1998. The process was developed after about a year of Land Board subcommittee work with lessees and the Department. There were also workgroups held between the Department and the lessees. He felt the already approved appeal process did not allow lessees an opportunity to be heard in the first round of the appeal.

The process currently says the lessee would file a written appeal with the Department after a Department review panel if the lessees were still aggrieved with the land value and still believed they had a point to make. The lessee could file a reconsideration with the Land Board and in that reconsideration the lessee could then present all arguments to the Board. The lessees have indicated they feel the process is inappropriate. They would like to have an opportunity to be heard in the first round of the appeal.

The Department is recommending that the process be amended to allow the Department panel to hear lessees, if the lessee requests to be heard. The Department is recommending that the appeal process, as it currently stands, be amended to show that the Director will appoint the three-person panel. The current process says that the Department would provide three Department employees, two of which must be certified appraisers. The Department currently has two certified appraisers but may not always have two certified appraisers. The process could still require two certified appraisers but one of the appraisers may be from outside the Department. The Department feels the Director should make the appointments. The Department may want to appoint other specialties as well as appraisers.

Mr. Taylor said the Board could direct the Department to develop and utilize a form for the lessees. Once notices are sent out the lessee could then file an appeal on land value. One concern Mr. Lempeis brought to the Department's attention was a lack of instructions on how to file an appeal. We had an appeal process but there were no instructions on who to file the appeal with, when to file the appeal nor was there a form to file the appeal on.

Priest Lake does not have an opportunity to appeal to Bonner County since we do the assessed value there under contract versus under a natural assessment. Payette Lake can appeal directly to the county on a county form. The use of forms would help the process and the amendment would reflect the Department's process versus the county process.

Another change the Department is seeking is that all appeals filed by the cottage site lessees would be first filed with the Director of the Department of Lands. Those appeals must be on land values. If the appeal were on other than land value, the appeal would be reviewed by the Director versus the panel. If the appeal were on land value, it would go to the Director and then to the three-person panel for review.

At this point we are well into the season and have already passed the deadline to file appeals (the fourth Monday in June). We are still ironing out a different process. Some lessees have indicated a desire to contract an appraisal as supporting information. Appraisers are very busy at this time of year because of growth and sales so lessees may have to wait for an appraisal to be completed. For this year, we ask the Board to amend the current process to extend the deadline eight (8) weeks.

The Department is also asking that the Board confirm the rent as established for the year 2000. We would like to not put that off. For the last two years we have done so. The rent was amended in 1997 and again in 1998 to allow opportunity to go through these reviews. We would like to maintain what there is today. We would put that notice out. If for any reason someone appeals their land value and it appears

the land value adjustment is appropriate, the Department can easily adjust the rental. We can do that with a refund to the client or even through a credit to the next year. The Department would like to confirm that the rent for 2000 remains as stated in the notice we sent to lessees in May. The rent is 2½ % of the current market value and that land value is determined by appraisal or county assessment at the Director's discretion.

Mr. Lempesis stated that he appreciated the opportunity to attend the meeting and stated that he wanted to be as candid and succinct as possible. Mr. Lempesis stated that in the appeal process, there is one thing missing since December 15, 1998 and that is the process.

Mr. Lempesis stated in the correspondence that he had sent to each of the Land Board members and the Department, he wanted to define what the rules of this appeal process are. And those rules have never been addressed.

Mr. Lempesis said if you merely adopt what the Department's recommends, there will be as much confusion tomorrow as there was yesterday concerning the appeal process. He believes there are three or four core issues the Board needs to decide. However, there are a myriad of issues. He said it depends where the venue lies, where hearings will be held, what timeframe submittals must be made in, when notices are received and in what form they should be received. All of these things are part and parcel of every process in the state of Idaho and in every fair hearing process in the world.

Mr. Lempesis stated lessees simply want the right and honor to be heard and to make a record in an unbiased forum.

Governor Kempthorne asked Mr. Lempesis if the outline Mr. Taylor presented would be compatible with a further delineation of what he was suggesting. Mr. Lempesis answered it was in large part. He said there are some fundamental disagreements. One disagreement is the notion that the Director should be the initial arbiter of these disputes. He suggested that the Board use an independent hearing officer to hear these issues and then to report to the Board. The Board could then review the appeal without further hearing.

State Controller Williams said he had reviewed what the Department originally recommended in April and thought it followed very well to what had been agreed to in December. There were some things that needed to be filled in but the basics were there.

State Controller Williams asked Mr. Lempesis if he wanted to know when, where, what - just the fundamental things. Mr. Lempesis said yes. State Controller Williams said he felt that is what the Department was planning to do from what was outlined in the memorandum. He asked Mr. Lempesis if he could get together with the Department and come up with the where, the timeframe and the procedures for getting evidence in, would he (Mr. Lempesis) feel that he was being treated fairly.

Mr. Lempesis said that he would with this exception. He stated he wanted the record to be clear in all fairness. He said he had been asking for this information since December 15, 1998 and to presuppose what the Department today has in their memo, which he received yesterday – given the timeframe in detail befuddled him. He said it is now July and he had people whose future depends on a fair process and he said he saw nothing that says when he would be notified of the hearing, where the hearing would take place. He said he does see now who will hear the matter, which is the Department's proposal to have Mr. Hamilton review the work of his own Department.

State Controller Williams said the Department is going to extend everything eight (8) weeks to allow for the filing of appeals. He asked Mr. Lempesis if that was long enough. Mr. Lempesis said he would presume that it was and Mr. Cresswell concurred. It was confirmed that it would be eight weeks from today (7/13/99). It was agreed that these appeals would be held in Bonner County, Valley County or Kootenai County.

State Controller Williams said that all the legal, constitutional, non-valuation issues go to the Director. The lessees will have plenty of notice and they will have an opportunity to be heard so that an accurate record can be established.

State Controller Williams asked Mr. Lempesis if he had any objection to a hearing officer being appointed or to the Board utilizing a three-person panel as recommended by the Department. Mr. Lempesis stated he would prefer a hearing officer, but if there were a panel before which he could present witnesses and submit evidence, documents and exhibits, a panel would be satisfactory.

State Controller Williams said that his last point is where would judicial review of this take place. Ada County would be preferred because it is cheaper for the state but it is recognized as a major point. Mr. Lempesis said Ada County would be a convenience issue for the department and a non-convenience issue for the lessees in that you have three hundred (300) people who live in that vicinity who may wish to attend or participate. It would seem fair to utilize the district judge because he is more familiar with the area.

Mr. Lempesis stated he would like to be notified at least 15 days in advance of the hearing. Mr. Lempesis asked to see a transcribed record of the proceedings and the State Controller stated that he did not see that as a problem.

Mr. Lempesis said he would like some deadline for when each of these reviewing agencies – whether it is the Director or the panel – would issue their findings. He asked about the role of the Land Board. He envisioned the Land Board would take the report from the hearing officer, review it and entertain such additional arguments or evidence, as they wanted.

State Controller Williams said that is the valuation side. Legal, constitutional and other issues would be directed to a full hearing before the Director. The Director could appoint a hearing officer if he chose to do so. Records would be made and transcripts would be kept. Findings, facts and conclusions would be made when necessary.

Director Hamilton said the first round of appeals is before the agency – before the Bureau. Any appeals of those decisions on the record then go to the Board. He stated typically the agency makes a decision and then the appeal goes to the Board on the record. The Board reviews the appeal on the record and then you have the appeal from the Board's decision. Upholding the Director or reversing the Director is up to the courts or the appeal goes back to the agency for further work. He said that it seemed to him that is the process and he asked counsel whether or not that is the process that had been contemplated.

Deputy Attorney General Stephanie Balzarini said she thought what was being discussed was very similar to what the Department of Lands proposed in their Board Memo today with some definition of deadlines and some clarification of terms. She did not think it was very far from what was being proposed by the Department in the first place.

Governor Kempthorne asked the State Controller if he wished to make that in the form of a motion. State Controller Williams made the motion that we accept the Department's recommendation as outlined together with modifications made in consultation with counsel for the lessees today regarding notice requirements, 15-day cutoff, adequate notice, the when, the where and the location of hearings. He said he would move that the hearings be held in any one of those three counties, Bonner, Valley or Kootenai. Ada County could be used if people wanted to hold the hearings in Ada instead of Valley County. Also any judicial review would be in the forum of the county where the lots are located.

Mr. Lempesis asked if he was given to understand he would have the opportunity at these hearings to present evidence and testimony absolutely. State Controller Williams said yes. That would be part of the motion. All evidence and testimony presented by the appellants would be allowed.

Mr. Lempesis asked that someone put this in writing and distribute it with a timeframe with all of the rules and details sometime within the next couple of weeks. Director Hamilton agreed since the Board will not meet again until September. He suggested this will be done and it will be circulated to the Board, to counsel and to Doug Cresswell and the members of the association and representatives of the association.

Director Hamilton stated he thought the Board needed to give the Department some immediate feedback. If this is approved, with Mr. Lempesis' review and feedback to the Board, then the Department needs to be able to move on it.

To clarify the motion, Governor Kempthorne added that each of the four counties can be the appropriate venue. The Governor asked for a second to the motion. Secretary of State Cenarrusa seconded the motion.

Mr. Doug Cresswell asked if the motion also included paying the 2000 rent prior to appeal. State Controller Williams said the Department's recommendation as augmented was part of the motion and that was part of the Department's recommendation.

Mr. Lempesis suggested that the Department could submit to him and to others the recommendations of this final writing so we all know what we are doing. Director Hamilton stated that he would concur with that as long as the Department got a copy of the letter.

Governor Kempthorne said that there was a motion and a second before the Board. He said it would be with the understanding that the State Controller be the reviewer of this. There being no further discussion, the motion carried on a vote of 4-0 with Attorney General Lance being absent.

Governor Kempthorne recognized Mr. Doug Cresswell. He stated that Mr. Cresswell was the co-chairman of the Human Rights Task Force in Kootenai County in Northern Idaho. He complimented Mr. Cresswell for his efforts on this Task Force.

## **12. Potential lease on Lincoln Street property in Idaho Falls, response to RFP process - Presented by Bob Snapp, Lands Leasing Specialist**

Mr. Bob Snapp presented background information on this issue. Mr. Bob Wilde of S & W Enterprises, Inc. was available for questions.

Mr. Snapp said the Board previously approved going ahead with an RFP process on this parcel last October. The Department has been actively seeking a lessee for this parcel. S & W Enterprises, Inc., is a young, locally-owned trucking business operating thirteen (13) trucks, eight (8) long haul and five (5) locally.

*S&W Enterprises, Inc., proposes:*

1. To lease 4.02 acres with associated facilities at 965 Lincoln Road, Idaho Falls, for their trucking business headquarters;
2. To complete required sheet rock renovation in the office portion of the main 8,750 square foot building if the Department of Lands will renovate the plumbing and electrical and that the Department reimburse the expense of sheet-rock renovation through reduced rental, subject to approval;
3. A zero or no service lease, i.e., S & W Enterprises, Inc., would assume responsibility for controlling weeds and maintaining leased grounds in a clean and tidy condition, pay all utility and janitorial expenses, pay minor repairs (up to \$200) and any associated fees. S & W Enterprises, Inc., would maintain insurance on all personal property;
4. An option to sublease the 2,040 square foot metal shop and 1,950 square foot metal warehouse with a percentage of the sublease rental going to the state, subject to department approval;



5. To lease the subject property for four years to expire December 31, 2003 with an option to terminate the lease December 31, 2001;
6. An option allowing additional renovation as needed throughout the lease term, subject to department approval;
7. A starting rental of \$20,000 per year with an annual CPI-U adjustment thereafter.

The Department recommended that the proposal be accepted.

Governor Kempthorne asked if Mr. Wilde had anything to add. Mr. Wilde said this site fit their needs for the period requested.

Superintendent Howard moved that the recommendation of the Department be approved. State Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

**13. Boundary line settlement – Request by William Buckner for approval of boundary line agreement process to resolve boundary line location - Presented by Perry A. Whittaker, Chief, Bureau of Real Estate**

Mr. Perry Whittaker provided background information on this item. This is a boundary line dispute between Sections 7 and 18 and Sections 8 and 17, Township 3 North, Range 3 East, Boise-Meridian.

Mr. Whittaker said Mr. Gary Campbell, an adjacent owner, found an apparent discrepancy between surveys performed in 1868 and 1892 by the General Land Office along the section line. Mr. William Buckner purchased a property that abuts the questioned section line from Mr. Campbell and is currently in a refinance dilemma.

The Department recommended that a boundary line agreement with Mr. Buckner be developed and completed immediately. The area will continue to pursue access before finalizing any agreements with the other owners along this line. The consideration charged for this boundary line agreement from the state should be \$600.00 to help cover department administrative costs.

Department staff request approval to enter into a boundary line agreement with Mr. Buckner along the 1868 survey line.

Secretary of State Cenarrusa asked if there were any BLM land involved. Mr. Whittaker stated there was not. Secretary of State Cenarrusa asked if the 1868 line is accepted will this wipe out the discrepancies. Mr. Whittaker stated this would enable landowners to clear their titles. Governor Kempthorne asked if the landowners were agreeable to this. Mr. Whittaker stated they were. Director Hamilton stated this particular action may only deal with one allotment, but others will probably come forward and ask for the same type of agreement.

Secretary of State Cenarrusa moved to approve the recommendation of the Department. State Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

**14. Recognition of retiring career IDL employee Jim Wood, Supervising Range Manager, Eastern Idaho**

Director Hamilton stated this item is to recognize a long-time state of Idaho, Department of Lands employee, Jim Wood. Director Hamilton presented and read a resolution to the Board for consideration. Governor Kempthorne stated that was a tremendous accomplishment and commended Mr. Wood on his service to the state of Idaho.

The motion was made by Secretary of State Cenarrusa and seconded by Superintendent Howard to approve the resolution. The motion was carried on a vote of 4-0 with Attorney General Lance being absent.

Mr. Wood said that this recognition by the Department and the Land Board means a "whole lot." Mr. Wood's picture was taken with the Land Board and Director Hamilton.

Director Hamilton requested that another item be added to the agenda. Shirley Baker, recording secretary for the Land Board is leaving the Department. Governor Kempthorne thanked her for dedication to the people of Idaho and for serving the Board in this capacity.

Motion was made by State Controller Williams and seconded by Secretary of State Cenarrusa to approve the resolution. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

The information agenda was presented at this time.

Mr. Paul Mackley spoke on behalf of his brother, Mr. Jim Mackley, employee of the state of Idaho. He spoke regarding an issue involving his brother, termed a "personnel issue," that has potential volatility. Governor Kempthorne stated he was reluctant to enter into this conversation. He stated it was his understanding that no decision had been made on the issue. He stated that at this point it is a decision rightfully within the responsibility of the Director of the Department of Lands. The Director has not rendered his decision.

Governor Kempthorne said based on what ultimately may be the decision, there may or may not be a request for appeal. If there is a request, it will go to the Personnel Commission. He felt to ask the Land Board at this time to entertain questions and to discuss the issue was not appropriate.

The motion was made by Secretary of State Cenarrusa to go into Executive Session to discuss the Director's salary. State Controller Williams seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

## **15. Director's Salary**

The motion was made by Secretary of State Cenarrusa to return to Regular Session. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0 with Attorney General Lance being absent.

State Controller Williams stated that the Director's salary was reviewed in Executive Session and the Board unanimously agreed to increase the Director's salary by 3.75%.

The motion was made by State Controller Williams to increase the Director's salary by 3.75%. Superintendent Howard seconded the motion. The motion carried on a vote of 4-0, with Attorney General Lance being absent.

Governor Kempthorne told Director Hamilton that the service he rendered to the state of Idaho was greatly appreciated.

## **• INFORMATION AGENDA**

There is no action required on the information agenda.

## **16. Timber sale activity report**

17. Interest rate update
18. Triumph Mine Update
19. Land exchange activity during FY99 and exchange status

There being no further business to come before the Board, the meeting was adjourned.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne  
President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Pete T. Cenarrusa  
Pete T. Cenarrusa  
Secretary of State

/s/ Stanley F. Hamilton  
Stanley F. Hamilton  
Director

<p>The above-listed final minutes were approved by the State Board of Land Commissioners at the September 14, 1999 regular Land Board meeting.</p>
--